

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JANE DOE 3,)	
)	
Plaintiff,)	CIVIL ACTION FILE
)	NO. 1:19-CV-03843-WMR
)	
v.)	
)	
RED ROOF INNS, INC., VARAHI)	
HOTEL, LLC, FMW RRI NC, LLC,)	
WESTMONT HOSPITALITY)	
GROUP, INC., RRI III, LLC,)	
WYNDHAM HOTELS & RESORTS,)	
INC., MICROTTEL INNS AND)	
SUITES FRANCHISING, INC.,)	
KUZZINS BUFORD, LLC, 2014 SE)	
OWNER 5-EMORY, LLC, LAXMI)	
DRUID HILLS HOTEL, LLC, JHM)	
HOTELS MANAGEMENT, INC.,)	
AURO HOTELS MANAGEMENT,)	
LLC, HILTON FRANCHISE)	
HOLDINGS, LLC, HILTON)	
DOMESTIC OPERATING)	
COMPANY, INC., HILTON)	
WORLDWIDE HOLDINGS, INC., 42)	
HOTEL CUMBERLAND LLC,)	
ENCORE CUMBERLAND LLC,)	
EXTENDED STAY AMERICA, INC.,)	
ESA MANAGEMENT, LLC, ESA P)	
PORTFOLIO, LLC, F/K/A BRE/ESA P)	
PORTFOLIO, LLC, ESA P)	
PORTFOLIO OPERATING LESSEE,)	
LLC and JOHN DOES 1-10.)	

DEFENDANTS LAXMI DRUID HILLS HOTEL, LLC, JHM HOTELS MANAGEMENT, INC., AND AURO HOTELS MANAGEMENT, LLC'S MOTION TO DISMISS AND MEMORANDUM OF LAW IN SUPPORT

COME NOW Defendants Laxmi Druid Hills Hotel, LLC, JHM Hotels Management, Inc., and Auro Hotels Management, LLC (collectively “Defendants”), and hereby move to dismiss certain of Plaintiff’s claims against them.

I. Defendants join in the arguments advanced by its co-defendants

In an effort to avoid reiterating the same arguments previously advanced, Defendants join in the arguments advanced by Defendants Hilton Domestic Operating Company and Hilton Worldwide Holdings Inc. [Doc. 125] to the extent applicable to the claims against these Defendants.

II. Plaintiff’s negligence claim is barred by the statute of limitations

Plaintiff claims that she was trafficked at a Hampton Inn during the time period of 2010 to 2012 and was injured as a result of Defendants’ alleged negligence during this period. However, the statute of limitations in Georgia for a negligence claim is two years. O.C.G.A. § 9-3-33. Because Plaintiff did not bring suit against these Defendants until November 2019, Plaintiff’s negligence claim is barred by the statute of limitations.

Moreover, to the extent Plaintiff so argues, the statute of limitations was not tolled by virtue of O.C.G.A. § 9-3-99.¹ Plaintiff bears the burden of proof to establish that the limitations period has been tolled. *Harrison v. McAfee*, 338 Ga. App. 393, 395 (2016). Here, Plaintiff has failed to come forward with any evidence that a police investigation is open or closed, whether a criminal has been arrested, whether prosecution proceedings have been initiated, or whether a criminal case has been adjudicated. Accordingly, Plaintiff's negligence claim has not been tolled by O.C.G.A. § 9-3-99 and her negligence claim is therefore barred.

III. Plaintiff's Georgia RICO claims are barred by the statute of limitation

Plaintiff's Georgia Civil RICO claims are barred by the applicable 5-year statute of limitations. Plaintiff alleges she was injured from 2010 through 2012. Under O.C.G.A. § 16-14-8, a civil action "shall be commenced up until five years after the conduct in violation of a provision of this chapter terminates." According to Plaintiff's Amended Complaint, the cause of action terminated in 2012. Therefore, her action must have been filed in 2017. However, Plaintiff did not file

¹ O.C.G.A. § 9-3-99 provides as follows: "The running of the period of limitations with respect to any cause of action in tort that may be brought by the victim of an alleged crime which arises out of the facts and circumstances relating to the commission of such alleged crime committed in this state shall be tolled from the date of the commission of the alleged crime or the act giving rise to such action in tort until the prosecution of such crime or act has become final or otherwise terminated, provided that such time does not exceed six years."

this Amended Complaint against Defendants until 2019. Accordingly, her Georgia Civil RICO claims are untimely and must be dismissed.

IV. Conclusion

For the foregoing reasons, Defendants Laxmi Druid Hills Hotel, LLC, JHM Hotels Management, Inc., and Auro Hotels Management, LLC respectfully request this Court grant its Motion to Dismiss.

This 20th day of January, 2020.

Respectfully submitted,

SWIFT, CURRIE, McGHEE & HIERS

By: /s/ **Pamela N. Lee**
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CERTIFICATE OF COMPLIANCE

I hereby certify this document was prepared in accordance with Court Rule L.R. 5.1B, N.D. Ga., in the Times New Roman (14 point) font.

By: /s/ **Pamela N. Lee**
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CERTIFICATE OF SERVICE

This is to certify that on the 20th day of January, 2020, I have caused to be served upon counsel for all parties a true and correct copy of the foregoing DEFENDANTS LAXMI DRUID HILLS HOTEL, LLC, JHM HOTELS MANAGEMENT, INC., AND AURO HOTELS MANAGEMENT, LLC'S MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO DISMISS by filing same through use of the Court's online filing system, the CM/ECF system for the United States District Court for the Northern District of Georgia, which will serve all counsel of record.

This 20th day of January, 2020.

By: /s/ **Pamela N. Lee**

Pamela N. Lee

Georgia State Bar No. 198981

Rachel W. Mathews

Georgia State Bar No. 537964

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